

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

Chapter 11

DPH HOLDINGS CORP., et al.

Case No. 05-44481 (RDD)

Reorganized Debtors.

RESPONSE TO FORTY-FOURTH OMNIBUS CLAIMS OBJECTION

Jessica Kraus, by and through her attorneys, Cellino & Barnes, P.C., for her Response to the Debtors' Forty-Fourth Omnibus Claims Objections, alleges as follows:

1. On or about October 8, 2005, Delphi Corporation and other captioned debtors (collectively referred to as "Debtors") filed a petition in bankruptcy under Chapter 11 of the Bankruptcy Code.

2. Prior to October 8, 2005, Jessica Kraus was involved in a motor vehicle accident which resulted in personal injuries to her on or about December 11, 2001.

(Exhibit A).

3. On or about December 9, 2004, Jessica Kraus commenced a lawsuit against debtor(s) in New York State Supreme Court, Erie County, Index No. I 2004-12551 for her personal injuries. **(Exhibit B).**

4. Subsequent to commencing said lawsuit, debtors filed this present Bankruptcy proceeding.

5. As a result of debtors' bankruptcy, Jessica Kraus filed her Proof of Claim against Delphi Automotive Systems LLC in the amount of \$500,000.00 (the "Claim"). Upon information and belief the Claim has been assigned a Claim Number of 14180. The Claim is an amendment/surviving of one or more previously filed claims, under claim numbers 9389 and 9456.

6. On or about February 3, 2010, Debtors filed the Forty-Fourth Omnibus Claims Objection ("Claim Objection").

7. In the Claim Objection, the basis stated for the Debtors' objection to the Jessica Kraus's claim is "Personal Injury Claim". The Debtors allege that the Claim(s) (i) do not have a legal basis to support the Claim and/or (ii) are not owing pursuant to the Reorganized Debtors' books and records.

8. Other than the aforementioned general allegation and reference set forth above, the Debtors provide no specific allegations to support the Claim Objection or a basis for denial of the Claim.

9. Jessica Kraus's claim is not a claim subject to disallowance because it does have a legal basis – Ms. Krauss did not cause the subject motor vehicle accident with the debtor vehicle AND she has sustained a serious, permanent injury under New York State Law. **(Exhibit C; See also Exhibit A & B).**

10. The Claim cannot be disallowed and expunged because it has merit.


11. The Debtors' unsubstantiated and general allegations are insufficient to provide any basis for a determination that the Claim is subject to disallowance and expungement as alleged by the Debtors.

12. Therefore, Jessica Kraus requests that the Claim be allowed and that the Debtors' Claim Objection as to her Claim be dismissed.

DATED: Buffalo, New York
March 9, 2010

Yours, etc.,

CELLINO & BARNES, P.C.

By: 
Christopher D. D'Amato, Esq.
Attorneys for Plaintiff
2500 Main Place Tower
350 Main Street
Buffalo, NY 14202-3725
(716) 854-2020

TO: DPH Holdings Corp.
5725 Delphi Drive
Troy, MI 48098
(Att'n President)

Skadden, Arps, Slate, Meagher & Flom, LLP
155 North Wacker Drive
Chicago, IL 60606
(Att'n: John Wm. Butler, Jr., John K. Lyons and
Joseph N. Wharton)

CC: Honorable Robert D. Drain, USBJ
United States Bankruptcy Court
for the Southern District of New York
300 Quarropas Street
Courtroom 118
White Plains, NY 10601-4140

EXHIBIT A

SP BUFFALO

AMENDED REPORT

DMV COPY

B01-2845

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|--|---|--|-------------------|--|-----------------------|--|----------------------|--|--|--|-----------------|--|--|--|-------------------------------------|--|---|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| 1 | | Accident Date Month Day Year 12 11 01 | | Day of Week TH | | Military Time 1820 | | No. of Vehicles 3 | | No. Injured 1 | | No. Killed 0 | | Not Investigated at Scene <input type="checkbox"/> | | Left Scene <input type="checkbox"/> | | Police Photos <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | | | | | | | | | | | | | | | | | | | | |
| VEHICLE 1 | | | | | | | | | | | | | | | | | | | | VEHICLE 2 <input type="checkbox"/> BICYCLIST <input type="checkbox"/> PEDESTRIAN <input type="checkbox"/> OTHER PEDESTRIAN | | | | | | | | | | | | | | | | | | | |
| 2 | | | | | | | | | | VEHICLE 1 - Driver License ID Number 147235253 State of Lic. NY | | | | | | | | | | VEHICLE 2 - Driver License ID Number 303 501 351 State of Lic. NY | | | | | | | | | | | | | | | | | | | |
| Driver Name - exactly as printed on license METTRICK, STEVEN, J | | | | | | | | | | Driver Name - exactly as printed on license KRAUS, JESSICA, T | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Address (Include Number & Street) 14 LITTLEWOOD LNE | | | | | | | | | | Address (Include Number & Street) 114 BUELL AVE | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| City or Town ROCHESTER NY State 14625 | | | | | | | | | | City or Town CHEEKTOWAGA NY State 14225 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 | | | | | | | | | | Date of Birth Month Day Year Sex M Unlicensed <input type="checkbox"/> No. of Occupants 1 Public Property Damaged <input type="checkbox"/> | | | | | | | | | | Date of Birth Month Day Year Sex F Unlicensed <input type="checkbox"/> No. of Occupants 1 Public Property Damaged <input type="checkbox"/> | | | | | | | | | | | | | | | | | | | |
| Name - exactly as printed on registration DELPHI AUTOMOTIVE | | | | | | | | | | Name - exactly as printed on registration DRIVER | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Address (Include Number & Street) 200 WALKER MTN RD | | | | | | | | | | Address (Include Number & Street) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| City or Town LOCKPORT NY State 14094 | | | | | | | | | | City or Town | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Plate Number AKM915 State of Reg. NY Vehicle Year & Make 02 FORD Vehicle Type SUV Ins. Code 423 | | | | | | | | | | Plate Number G5390P State of Reg. NY Vehicle Year & Make 89 MERCY Vehicle Type 215 Ins. Code 231 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5 | | | | | | | | | | Ticket/Arrest Number(s) LM1539005 | | | | | | | | | | Ticket/Arrest Number(s) | | | | | | | | | | | | | | | | | | | |
| Violation Section(s) 1129 9 V&T LAW | | | | | | | | | | Violation Section(s) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 6 | | | | | | | | | | Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit. | | | | | | | | | | Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit. | | | | | | | | | | | | | | | | | | | |
| VEHICLE 1 DAMAGE CODES | | | | | | | | | | VEHICLE 2 DAMAGE CODES | | | | | | | | | | Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles. | | | | | | | | | | | | | | | | | | | |
| Box 1 - Point of Impact 2 2 | | | | | | | | | | Box 1 - Point of Impact 8 8 | | | | | | | | | | Rear End 1 | | | | | | | | | | | | | | | | | | | |
| Box 2 - Most Damage 3 3 | | | | | | | | | | Box 2 - Most Damage 2 4 5 | | | | | | | | | | Left Turn 3 | | | | | | | | | | | | | | | | | | | |
| Enter up to three more Damage Codes 1 3 5 | | | | | | | | | | Enter up to three more Damage Codes 2 4 5 | | | | | | | | | | Right Angle 4 | | | | | | | | | | | | | | | | | | | |
| Vehicle By Towed: RYSNIAK'S | | | | | | | | | | Vehicle By Towed: = | | | | | | | | | | Right Turn 5 | | | | | | | | | | | | | | | | | | | |
| VEHICLE DAMAGE CODING: | | | | | | | | | | | | | | | | | | | | Head On 7 | | | | | | | | | | | | | | | | | | | |
| 1-13. SEE DIAGRAM ON RIGHT. | | | | | | | | | | | | | | | | | | | | Overtaking 2 | | | | | | | | | | | | | | | | | | | |
| 14. UNDERCARRIAGE 17. DEMOLISHED | | | | | | | | | | | | | | | | | | | | Left Turn 0 | | | | | | | | | | | | | | | | | | | |
| 15. TRAILER 18. NO DAMAGE | | | | | | | | | | | | | | | | | | | | Right Turn 6 | | | | | | | | | | | | | | | | | | | |
| 16. OVERTURNED 19. OTHER | | | | | | | | | | | | | | | | | | | | Sideswipe 8 | | | | | | | | | | | | | | | | | | | |
| Reference Marker 0901 | | | | | | | | | | Coordinates (if available) Latitude/Northing: | | | | | | | | | | Place Where Accident Occurred: | | | | | | | | | | | | | | | | | | | |
| TWYE | | | | | | | | | | Longitude/Easting: | | | | | | | | | | County ELIC <input type="checkbox"/> City <input type="checkbox"/> Village <input checked="" type="checkbox"/> Town of CHEEKTOWAGA | | | | | | | | | | | | | | | | | | | |
| 4256 | | | | | | | | | | | | | | | | | | | | Road on which accident occurred T90EB | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | at 1) intersecting street (Route Number or Street Name) | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | or 2) <input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W of (Route Number or Street Name) | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | Feet Miles (Milepost, Nearest intersecting Route Number or Street Name) | | | | | | | | | | | | | | | | | | | |
| Accident Description/Officer's Notes ALL INVOLVED VEHICLES EASTBOUND ON T90 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| VEH#2 SLOWING FOR STOPPED TRAFFIC WAS STRUCK | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| IN THE REAR BY VEH#1. VEH#2 WAS PUSHED INTO | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| THE REAR OF VEH#3. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | A1555 | | | | | | | | | | | | | | | | | | | |
| ALL INVOLVED | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| A 1 1 4 1 38 M | | | | | | | | | | | | | | | | | | | | Names of all Involved METTRICK, STEVEN, J | | | | | | | | | | | | | | | | | | | |
| B 2 1 4 1 20 F 6 12 6 | | | | | | | | | | | | | | | | | | | | KRAUS, JESSICA, T | | | | | | | | | | | | | | | | | | | |
| C 3 1 4 1 19 M | | | | | | | | | | | | | | | | | | | | ROMANOWSKI, ELIC, M | | | | | | | | | | | | | | | | | | | |
| D 3 3 4 1 48 F | | | | | | | | | | | | | | | | | | | | ROMANOWSKI, MARIANN | | | | | | | | | | | | | | | | | | | |
| E | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| F | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Officer's Rank and Signature TPR. SEAN D. WALKER | | | | | | | | | | Badge/ID No. 4429 | | | | | | | | | | NCIC No. 11404 | | | | | | | | | | | | | | | | | | | |
| Print Name TPR. SEAN D. WALKER | | | | | | | | | | Precinct/Post Troop/Zone T/L1 | | | | | | | | | | Station/Beat Sector 11/24 | | | | | | | | | | | | | | | | | | | |
| In Full | | | | | | | | | | Date/Time Reviewed 12/22/01 6PM | | | | | | | | | | Reviewing Officer ADW | | | | | | | | | | | | | | | | | | | |

Local Codes
05-4434-1000 Doc 19617
SPB AFFALD☐ AMENDED REPORT

PMV COPY

DOB 05/24/63

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|--|--|-------------------|--|-----------------------|--|----------------------|--|------------------|--|--|--|--|--|-------------------------------------|--|---|--|--|--|
| 1 Accident Date Month Day Year 12 11 01 | | Day of Week TH | | Military Time 1820 | | No. of Vehicles 3 | | No. Injured 1 | | No. Killed 0 | | Not Investigated at Scene <input type="checkbox"/> | | Left Scene <input type="checkbox"/> | | Police Photos <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | | |
| 2 VEHICLE 1 License ID Number 647470 968 Driver Name - exactly as printed on license ROMANOWSKI, ERIC, M Address (Include Number & Street) 31 OAK BROOK DR City or Town W. SENECA State NY Zip Code 14224 | | | | | | | | | | <input type="checkbox"/> VEHICLE 2 <input type="checkbox"/> BICYCLIST <input type="checkbox"/> PEDESTRIAN <input type="checkbox"/> OTHER PEDESTRIAN License ID Number Driver Name - exactly as printed on license Address (Include Number & Street) City or Town State Zip Code | | | | | | | | | |
| 3 Date of Birth Month Day Year Sex M <input type="checkbox"/> Unlicensed <input type="checkbox"/> No. of Occupants 2 Public Property Damaged <input type="checkbox"/> Name - exactly as printed on registration ROMANOWSKI, ROBERT Address (Include Number & Street) 31 OAK BROOK DR City or Town W. SENECA State NY Zip Code 14224 | | | | | | | | | | Date of Birth Month Day Year Sex <input type="checkbox"/> Unlicensed <input type="checkbox"/> No. of Occupants Public Property Damaged <input type="checkbox"/> Name - exactly as printed on registration Address (Include Number & Street) City or Town State Zip Code | | | | | | | | | |
| 4 Plate Number AP44570 State of Reg. NY Vehicle Year & Make 96 PLYM Vehicle Type VAN Ins. Code 011 | | | | | | | | | | Plate Number State of Reg. Vehicle Year & Make Vehicle Type Ins. Code | | | | | | | | | |
| 5 Ticket/Arrest Number(s) Violation Section(s) | | | | | | | | | | Ticket/Arrest Number(s) Violation Section(s) | | | | | | | | | |
| 6 VEHICLE 1 DAMAGE CODES Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit. Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more Damage Codes Vehicle By Towed To | | | | | | | | | | VEHICLE 2 DAMAGE CODES Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit. Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more Damage Codes Vehicle By Towed To | | | | | | | | | |
| 7 ACCIDENT DIAGRAM Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles. 1. Rear End 2. Left Turn 3. Right Angle 4. Right Turn 5. Head On 6. Overtaking 7. Left Turn 8. Right Turn 9. Sideswipe | | | | | | | | | | 9. Cost of repairs to any one vehicle will be more than \$1000. <input type="checkbox"/> Unknown/Unable to Determine <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | | | | | | | | | |
| Reference Marker 0901 TWYE 4256 | | | | | | | | | | Coordinates (if available) Latitude/Northing Longitude/Easting | | | | | | | | | |
| Place Where Accident Occurred: County ERIC City Village Town of CHELTOWAGA Road on which accident occurred I 90 E at 1) intersecting street or 2) N S E W of Feet Miles | | | | | | | | | | Names of all involved Date of Death Only | | | | | | | | | |
| Accident Description/Officer's Notes | | | | | | | | | | A1555 | | | | | | | | | |

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|-----------------------|--|--|--|--|--|--|--|--|--|--------------------|--|--|--|--|--|--|--|--|--|------------------------------|--|--|--|--|--|--|--|--|--|---------------------------|--|--|--|--|--|--|--|--|--|-----------------------|--|--|--|--|--|--|--|--|--|---------------------------------|--|--|--|--|--|--|--|--|--|
| 8 9 10 11 12 13 14 15 16 17 BY TO 18 | | | | | | | | | | Names of all involved | | | | | | | | | | Date of Death Only | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| A | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| C | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| D | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| E | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| F | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Officer's Rank and Signature Print Name in Full TPR. SEAN D. WALKER | | | | | | | | | | Badge/ID No. 4429 | | | | | | | | | | NCIC No. 15464 | | | | | | | | | | Precinct/Post Troop/Zone T/C | | | | | | | | | | Station/Beat Sector 11/24 | | | | | | | | | | Reviewing Officer AAU | | | | | | | | | | Date/Time Reviewed 12/22/01 6PM | | | | | | | | | |

EXHIBIT B

**DELIVER THESE PAPERS TO YOUR AUTOMOBILE
LIABILITY INSURANCE CARRIER IMMEDIATELY. YOUR
FAILURE TO DO SO MAY RESULT IN THE LOSS OF COVERAGE.**

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

JESSICA KRAUS
114 Buell Avenue
Cheektowaga, New York 14225

Plaintiff,

vs.

SUMMONS

Index No. *I 2004-12551*

DELPHI AUTOMOTIVE SYSTEMS, LLC
200 Upper Mountain Road
Lockport, New York 14094

DELPHI AUTOMOTIVE SYSTEMS, LLC
c/o CT Corporation System
111 Eighth Avenue
New York, New York 10011

DELPHI AUTOMOTIVE SYSTEMS SERVICES, LLC
c/o CT Corporation System
111 Eighth Avenue
New York, New York 10011

DELPHI AUTOMOTIVE SYSTEMS HUMAN
RESOURCES, LLC
c/o CT Corporation System
111 Eighth Avenue
New York, New York 10011

LEASE PLAN USA, INC.
1165 Sanctuary Parkway
Alpharetta, Georgia 30004

STEVEN J. METTRICK
14 Littlewood Lane
Rochester, New York 14625

FILED
DEC - 9 2004
ERIE COUNTY
CLERK'S OFFICE

STEVEN J. METTRICK
3000 Town Center
Suite 3000
Southfield, Michigan 48075

Defendants.

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED and required to serve upon plaintiffs' attorney an answer to the complaint in this action within twenty (20) days after the service of this summons, exclusive of the day of service, or within thirty (30) days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of the venue designated is the residence of the plaintiff, which
is:
144 Buell Avenue, Cheektowaga, New York 14225

DATED: Buffalo, New York
December 9, 2004

Yours, etc.,

CELLINO & BARNES, P.C.

By: 

Christopher D. D'Amato, Esq.
Attorneys for Plaintiffs
17 Court Street, 7th Floor
Buffalo, New York 14202-3290
(716) 854-2020

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

JESSICA KRAUS,

Plaintiff,

COMPLAINT

vs.

Index No.

DELPHI AUTOMOTIVE SYSTEMS, LLC,
DELPHI AUTOMOTIVE SYSTEMS SERVICES,
LLC,
DELPHI AUTOMOTIVE SYSTEMS HUMAN
RESOURCES, LLC,
LEASE PLAN USA, INC.
STEVEN J. METTRICK

Defendants.

Plaintiff, above-named, by her attorneys, Cellino & Barnes, P.C., for her complaint against defendants, above-named, allege upon information and belief:

1. At all times herein relevant plaintiff has been a resident of the County of Erie and State of New York.
2. At all times herein relevant defendant Delphi Automotive Systems, LLC has been a corporation duly authorized to conduct business in the State of New York.
3. At all times herein relevant defendant Delphi Automotive Systems, LLC has conducted business in the State of New York, and Delphi Automotive Systems, LLC, has maintained a place of business in the State of New York.

4. At all times herein relevant Delphi Automotive Systems, LLC has transacted business in the State of New York, and Delphi Automotive Systems, LLC has entered into contracts to supply goods or services in the State of New York.

5. At all times herein relevant Delphi Automotive Systems, LLC has regularly done and solicited business in the State of New York; and Delphi Automotive Systems, LLC has engaged in other persistent courses of conduct within the State of New York; and Delphi Automotive Systems, LLC has derived substantial revenue from goods sold and/or services rendered within the State of New York.

6. At all times herein relevant Delphi Automotive Systems, LLC has owned, used or possessed real property situated within the State of New York.

7. This Court has personal jurisdiction over Delphi Automotive Systems, LLC pursuant to CPLR 302(a).

8. At all times herein relevant defendant Delphi Automotive Systems Services, LLC has been a corporation duly authorized to conduct business in the State of New York.

9. At all times herein relevant defendant Delphi Automotive Systems Services, LLC has conducted business in the State of New York, and Delphi Automotive Systems Services, LLC, has maintained a place of business in the State of New York.

10. At all times herein relevant Delphi Automotive Systems Services, LLC has transacted business in the State of New York, and Delphi Automotive Systems Services, LLC has entered into contracts to supply goods or services in the State of New York.

11. At all times herein relevant Delphi Automotive Systems Services, LLC has regularly done and solicited business in the State of New York; and Delphi Automotive Systems Services, LLC has engaged in other persistent courses of conduct within the State of New York; and Delphi Automotive Systems Services, LLC has derived substantial revenue from goods sold and/or services rendered within the State of New York.

12. At all times herein relevant Delphi Automotive Systems Services, LLC has owned, used or possessed real property situated within the State of New York.

13. This Court has personal jurisdiction over Delphi Automotive Systems Services, LLC pursuant to CPLR 302(a).

14. At all times herein relevant defendant Delphi Automotive Systems, Human Resources, LLC has been a corporation duly authorized to conduct business in the State of New York.

15. At all times herein relevant defendant Delphi Automotive Systems Human Resources, LLC has conducted business in the State of New York, and Delphi Automotive Systems Human Resources, LLC, has maintained a place of business in the State of New York.

16. At all times herein relevant Delphi Automotive Systems Human Resources, LLC has transacted business in the State of New York, and Delphi Automotive Systems Human Resources, LLC has entered into contracts to supply goods or services in the State of New York.

17. At all times herein relevant Delphi Automotive Systems Human Resources, LLC has regularly done and solicited business in the State of New York;

and Delphi Automotive Systems Human Resources, LLC has engaged in other persistent courses of conduct within the State of New York; and Delphi Automotive Systems Human Resources, LLC has derived substantial revenue from goods sold and/or services rendered within the State of New York.

18. At all times herein relevant Delphi Automotive Systems Human Resources, LLC has owned, used or possessed real property situated within the State of New York.

19. This Court has personal jurisdiction over Delphi Automotive Systems Human Resources, LLC pursuant to CPLR 302(a).

20. At all times herein relevant defendant Lease Plan USA, Inc., has been a corporation duly authorized to conduct business in the State of New York.

21. At all times herein relevant defendant Lease Plan USA, Inc., has conducted business in the State of New York, and Lease Plan USA, Inc., has maintained a place of business in the State of New York.

22. At all times herein relevant Lease Plan USA, Inc., has transacted business in the State of New York, and Lease Plan USA, Inc., has entered into contracts to supply goods or services in the State of New York.

23. At all times herein relevant Lease Plan USA, Inc., has regularly done and solicited business in the State of New York; and Lease Plan USA, Inc., has engaged in other persistent courses of conduct within the State of New York; and Lease Plan USA, Inc., has derived substantial revenue from goods sold and/or services rendered within the State of New York.

37. The plaintiff has sustained a loss in excess of the Basic Economic Loss as defined by the New York State Insurance Law.

38. Plaintiff has suffered a "serious injury" within the meaning of the Insurance Law of the State of New York.

39. The limitations of liability set forth in CPLR Article 16 do not apply herein; one or more of the exemptions set forth in CPLR §1602 applies.

40. As a result of the negligence and/or recklessness of defendants, as alleged above, plaintiff was seriously injured, and has suffered damages in an amount which exceeds the monetary jurisdictional limits of all lower New York State Courts but does not exceed the monetary jurisdictional limits of the New York State Supreme Court.

WHEREFORE, plaintiffs demand judgment against defendants, jointly and severally, with interest, in an amount which exceeds the monetary jurisdictional limits of all lower New York State Courts but does not exceed the monetary jurisdictional limits of the New York State Supreme Court.

DATED: Buffalo, New York
December 9, 2004

Yours, etc.,

CELLINO & BARNES, P.C.

By:



Christopher D. D'Amato, Esq.
Attorneys for Plaintiffs
17 Court Street, 7th Floor
Buffalo, New York 14202-3290
(716) 854-2020

EXHIBIT C



Dr. Frank Esposito

Chiropractor

2871 Genesee Street

Cheektowaga, New York 14225

892-0036

Cellino & Barnes
17 Court St,
Buffalo NY 14202

Re: Jessica Kraus
Date: 09-17-04
D/A: 12-11-01

To whom It May Concern:

Enclosed is the medical report that you requested regarding Jessie Kraus and the injuries she sustained in her motor vehicle accident.

HISTORY

As you know Ms Kraus was involved in a motor vehicle accident on 12-11-01. On that day while her vehicle was stopped at a traffic light it was rearended by another vehicle. Due to this accident Ms Kraus injured her neck, mid back and low back. She was first examined in my office on 01-14-04. I have been treating her for the last 3 and on half years. Her low back pain is constant with pain radiating into both legs. She grades her low back pain as a 7-10 on a scale of 0-10. Her neck and mid back pain are also constant and she grades the pain in these 2 areas a 7-10. Treatment gives her only temporary relief. She received spinal injections from Dr Geraci MD which gave her only minor temporary relief. Ms Kraus excels at sports and played year round. She joined Soft Ball leagues, Volley Ball leagues and Bowling leagues. Due to her injuries she spends most of her free time in bed. At the time of the accident she was employed at Cadet Cleaners. She was unable to return to the job due to the amount of lifting involved with her job duties. She is now employed as a secretary and occasionally misses work when she suffers from one of her severe exacerbation's. Ms Kraus denies any previous similar injuries.

PHYSICAL EXAMINATION

Ms Kraus is a 5 foot, 3 inch, 102 pound, 23 year old, well oriented female, Ms Kraus's gait varies from day to day depending on the amount of pain that she is in at the time. She is unable to jog or run. She exhibits a positive Minor's sign while arising from a seated position. She exhibits Lumbar muscle splinting while performing ordinary activities. Spinal inspection reveals an elevated right Ilium and left shoulder. She displays a slight right head tilt. The spinal column is offcentered to the right with the apex of curvature at the T11 vertebral segment.

Range of motion of the Cervical spine is; flexion to 35 degrees, extension to 10 degrees, right and left rotation to 40 degrees, right and left lateral flexion to 20 degrees. All ranges of motion were performed with a moderate to severe degree of pain. Range of motion of the Lumbosacral spine is; flexion to 45 degrees, extension to 10 degrees, right and left rotation to 30 degrees, right and left lateral flexion to 25 degrees. All ranges of motion were performed with a moderate to severe degree of pain. Palpation to the spine elicited exquisite tenderness over the bony and soft tissue elements of C3-4-5-6-7-T1-2-3, T9-10-11-12 and L3-4-5-S1. These same vertebral segments were also noted to be subluxated. Paravertebral muscle tension in the Cervical spine is graded as a +3 bilaterally. Right Trapezium muscle tension is graded as a +3 and +2 in the left. Erector Spinae muscle tension is graded as a +3 in the lower Thoraco-Lumbar spine. Erector Spinae muscle tension is graded as a +4 in the Lumbosacral spine. Active trigger points were noted in the Trapezius, Rhomboids and Gluteus Medius muscle groups bilaterally. The right leg was 3/4 inch shorter than the left.

ORTHOPEDIC NEUROLOGICAL EVALUATION

The following tests were performed on Ms Kraus's Cervical spine and were found to be positive; Maximum Cervical Compression, Compression, Spurlings, Soto Hall, O'Donohue's, Distraction, Lehermittes, Shoulder Depression and Valsalva. The following tests were performed on Ms Kraus's Lumbosacral spine and were found to be positive; Kemps, Becterews, Milgrams, Straight Leg Raise at 30 degrees on the right and 40 degrees on the left, Gaenslens, Goldwaite, Fabere Patrick, Trendelenberg, right and left Sacroiliac Joint Compression, Yeoman's and Dejerines Triad.

Deep tendon reflexes of the upper and lower extremities were patent and equal bilaterally. Muscle strength tests of the upper extremities revealed +3 weakness in shoulder abduction and finger flexion bilaterally. Muscle strength tests of the lower extremities revealed +3 weakness in the Quadriceps and Hamstring muscle groups bilaterally. She will also occasionally have trouble with heel and toe walking.

DIAGNOSTIC IMAGING

On 4-17-02 Ms Kraus had an MRI of the Lumbar and Thoracic spine which were essentially unremarkable but did not rule out Myopathological or Neuropathological components of the Vertebral Subluxation Complex.

On 01-14-02 an X-Ray series was performed on Ms Kraus's Lumbar and Cervical spine. The A-P Cervical radiograph reveals a slight right head tilt with the Occipital base at a 12 degree angle. A Vertebral subluxation was noted at C4-5-6. The lateral Cervical view revealed a reverse Cervical curve. The oblique views were essentially normal. The A-P Lumbosacral view revealed an elevated right Ilium. The spinal column was offcentered to the right with apex of curvature at

the T11 vertebral segment. Vertebral subluxations were also noted at L3-4-5-S1. The lateral view reveals facet Imbrication at the L4-5 vertebral segment. There is a 30 percent decrease in the L4-5 Intervertebral Foramen size. The Oblique views were essentially normal.

IMPRESSION

In my opinion Ms Kraus has a severe Hyperflexion/extension injury to her Cervical, Thoracic and Lumbar spine with a bilateral radiculopathy of the right upper and lower extremities. In my opinion these injuries are causally related to the 12-11-01 motor vehicle accident. Due to the findings of this examination I consider Ms Kraus to have a permanent moderate disability. She will live a life pain everyday. She will no longer play the sports which she loves. These type of long term chronic injuries also take a mental/ emotional toll on the person.

Sincerely,



Dr Frank Esposito

ProScan Imaging Buffalo

5214 Main Street
Amherst, New York 14221
Tel: 716.839.2600
Fax: 716.839.6700

Patient Name: Jessica Kraus Case Number: 58169
Date of Exam: 09/02/2004 Ref. Physician: P. Jeffrey Lewis, M.D.
Type of Exam: MRI - Lumbar Spine w/o Contrast
Date of Birth: 08/05/1981
Page 1

History: Low back pain.

MRI Examination of: Lumbar Spine.

Findings: The L5-S1 level shows no evidence of disc herniation or spinal stenosis. The neural foramina are patent.

The L4-5 level shows small annular tears without evidence of focal disc herniation or central spinal stenosis. The neural foramina are patent.

The L3-4, L2-3, L1-2 and T12-L1 levels show no evidence of disc herniation or spinal stenosis. The neural foramina are patent.

The conus and cauda equina are normal.

The paravertebral soft tissues are normal.

No fracture or dislocation identified.

There is no evidence of spondylolysis.

IMPRESSION:

Small annular tears at L4-5 with no evidence of lumbar disc herniation or lumbar spinal stenosis.

Thank you for your kind referral.

Gurmeet Dhillon, M.D.

GD/sm

D: 09/03/2004 00:11:57 (CST)

T: 09/03/2004 09:38:54 (EST)

WWW.PROSCAN.COM

ProScan Imaging Buffalo

5214 Main Street
Amherst, New York 14221
Tel: 716.839.2600
Fax: 716.839.6700

Patient Name: Jessica Kraus Case Number: 58167
Date of Exam: 09/02/2004 Ref. Physician: P. Jeffrey Lewis, M.D.
Type of Exam: MRI - Cervical Spine w/o Contrast
Date of Birth: 08/05/1981
Page 1

History: Neck pain.

MRI Examination of: Cervical Spine.

Findings: The C2-3, C3-4 and C4-5 levels show no evidence of disc herniation or spinal stenosis. The neural foramina are patent.

The C5-6 level shows small annular tears without evidence of focal disc herniation or central spinal stenosis. The neural foramina are patent.

The C6-7, C7-T1 and T1-2 levels show no evidence of disc herniation or spinal stenosis. The neural foramina are patent.

The cervical cord and craniocervical junction are normal.

The paravertebral soft tissues are normal.

No fracture or dislocation identified.

IMPRESSION:

Small annular tears at C5-6 with no evidence of cervical disc herniation or cervical spinal stenosis or cervical cord compression.

Thank you for your kind referral.

Gurmeet Dhillon, M.D.

GD/sm

D: 09/03/2004 00:11:57 (CST)

T: 09/03/2004 09:29:54 (EST)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

Case No. 05-44481(RDD)

In re:

**AFFIDAVIT OF SERVICE
BY FEDERAL EXPRESS
MAIL**

DPH HOLDINGS CORP., et al.

Debtors.

Case No. 05-44481 (RDD)

STATE OF NEW YORK)

ss:

COUNTY OF ERIE)

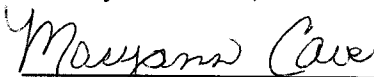
The undersigned being duly sworn, deposes and says:

1. Deponent is not a party to this action, is over 18 years of age, and resides in Amherst, New York.

2. That on March 9, 2010 deponent served the annexed Response to Forty-Fourth Omnibus Claims Objections the parties listed in Schedule A be depositing a true copy of same enclosed in a properly addressed wrapper, in an official depository under the exclusive care and custody of Federal Express.


Diane R. Hirsch

Sworn to before me this
9th day of March, 2010


Notary Public

MARYANN CAVE
Notary Public State of New York
Qualified in Erie County
My Commission Expires Feb. 28, 2014

Schedule A

DPH Holdings Corp. (VIA FEDERAL EXPRESS)
5725 Delphi Drive
Troy, MI 48098
(Att'n President)

Skadden, Arps, Slate, Meagher & Flom, LLP (VIA FEDERAL EXPRESS)
155 North Wacker Drive
Chicago, IL 60606
(Att'n: John Wm. Butler, Jr., John K. Lyons and
Joseph N. Wharton)

Honorable Robert D. Drain, USBJ (VIA FEDERAL EXPRESS)
United States Bankruptcy Court
for the Southern District of New York
300 Quarropas Street
Courtroom 118
White Plains, NY 10601-4140

United States Bankruptcy Court (VIA FEDERAL EXPRESS)
for the Southern District of New York
300 Quarropas Street
White Plains, NY 10601-4140
(Att'n: Lonnie Webb, Filing Clerk)